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**FACSIMILE TRANSMITTAL SHEET**

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TO:	FROM:
Examiner Anita M. King	Steven N. Terranova
COMPANY:	DATE:
PTO - Art Unit 3632	1/13/2006
FAX NUMBER:	TOTAL NO. OF PAGES INCLUDING COVER:
571-273-8300	10
PHONE NUMBER:	SENDER'S REFERENCE NUMBER:
	1025-005
RE:	YOUR REFERENCE NUMBER:
Petition to Withdraw Holding of Abandonment	10/801,210

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☐ URGENT ☐ FOR REVIEW ☐ PLEASE COMMENT ☐ PLEASE REPLY ☐ ORIGINAL TO FOLLOW

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**NOTES/COMMENTS:**

Attached please find the following document related to the above-referenced application:

- 1) Petition to Withdraw Holding of Abandonment (2 pages)
- 2) Exhibits A-C (7 pages)

NOTE: The information contained in this transmission is privileged and confidential and intended ONLY for the individual or entity named above. If you should receive this transmission in error, please notify our office and return to the below address via the U.S. Postal Service.

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201 SHANNON OAKS CIRCLE, SUITE 200  
CARY, NC 27511  
PH: (919) 654-4520  
FAX: (919) 654-4521

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of: Bryan Avery  
Serial No. 10/801,210  
Filed: 03/16/2004  
For: **METER STAND**

Examiner: King, Anita M.  
Art Unit: 3632

Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

Sir:

**PETITION TO WITHDRAW HOLDING OF ABANDONMENT -**  
**OFFICE ACTION NOT RECEIVED**

This petition is in response to the Notice of Abandonment mailed on December 27, 2005. MPEP § 711.03(c)(I)(A) and the Notice of October 25, 1993, 1156 O.G. 53, state (in part): "In order to minimize cost and burdens to the practitioner and the Office when an application has become abandoned due to a failure to receive an Office action, the Office is modifying the showing required to make a petition to withdraw the holding of abandonment grantable. The showing required to establish the failure to receive an Office action must consist of a statement from the practitioner stating that the Office action was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement."

I hereby petition to withdraw the holding of abandonment in this case, on the basis that the Office Action, which in this case is a Notice of Non-Compliant Amendment, forming the basis of the abandonment was not received. Although there should be no fee required for this petition, the Patent Office is hereby authorized to charge any fees to Deposit Account number 50-1732.

I hereby state that the Notice of Non-Compliant Amendment indicated, as mailed on May 26, 2005, was not received and that a search of the file jacket and the docket records in my office indicates that this Notice of Non-Compliant Amendment was not received. I have attached as Exhibit A a copy of the docket record where the non-received Notice of Non-Compliant Amendment would have been entered if it had been received and docketed. I have also attached

as Exhibit B a docket report showing all responses in my office having a due date of and around June 26, 2005. Additionally, I have attached as Exhibit C the docket record showing all communication to and from the Office relating to the filing and prosecution of this patent application, wherein it is evident that the Notice of Non-Compliant Amendment has not been received and docketed.

A Response to the Notice of Non-Compliant Amendment is being submitted separately via facsimile on the same date as this petition.

Consideration of this petition to withdraw the holding of abandonment is respectfully requested.

Respectfully submitted,

WITHROW & TERRANOVA, P.L.L.C.

By:



Steven N. Terranova  
Registration No. 43,185  
P.O. Box 1287  
Cary, NC 27512  
Telephone: (919) 654-4520

Date: January 13, 2006  
Attorney Docket: 1025-005

CERTIFICATE OF TRANSMISSION	
I HEREBY CERTIFY THAT THIS DOCUMENT IS BEING TRANSMITTED VIA FACSIMILE ON THE DATE INDICATED BELOW TO:	
Examiner: <u>Angela M. King</u> Art Unit: <u>3632</u> Fax: <u>571-273-8300</u>	
<u>Kelly Farrow</u>	Name of Sender
<u>[Signature]</u>	Signature
<u>1/13/06</u>	Date of Transmission

# Exhibit A

Filters Used:  
15 Tagged Records

## ToDo Report

Custom List Format

Date Printed: 1/12/2006  
Time Printed: 2:41PM  
Printed By: KFARRC

Date	Mat No	Done	Description	Staff	Code
5/26/2005	Thu § 2400-756A-1	Y	Report office action to client	Steven N. T	SOFTDEAI
5/26/2005	Thu § 2400-756B	Y	Report office action to client	Steven N. T	SOFTDEAI
5/26/2005	Thu § 7000-416	Y	Report office action to client	BSW, TMD	SOFTDEAI
5/26/2005	Thu · 7000-416	Y	Report office action to client	TMD, BSW	SOFTDEAI
5/26/2005	Thu § 2867-268	Y	Response submitted to OA	BSW, RCB	
5/26/2005	Thu · 2867-268	Y	Response submitted to OA	RCB, BSW	
5/26/2005	Thu § 7000-469	Y	Report office action to client	BSW, TMD	SOFTDEAI
5/26/2005	Thu · 7000-469	Y	Report office action to client	TMD, BSW	SOFTDEAI
5/26/2005	Thu § 2400-556	Y	Response submitted to OAF	TMD, SNT	
5/26/2005	Thu · 2400-556	Y	Response submitted to OAF	SNT, TMD	
5/26/2005	Thu § 1089-001	Y	Trademark OA received	Taylor M.D.	
5/26/2005	Thu § 7000-470	Y	Final Rejection (OA) received	BSW, TMD	
5/26/2005	Thu · 7000-470	Y	Final Rejection (OA) received	TMD, BSW	
5/26/2005	Thu § 2400-756A	Y	Report office action to client	Steven N. T	SOFTDEAI
5/26/2005	Thu § 7000-010	Y	F/U with PTO re issuance	Benjamin S	SOFTDEAI

# Exhibit B

Filters Used:  
75 Tagged Records

## ToDo Report

Custom List Format

Date Printed: 1/12/2006  
Time Printed: 2:16PM  
Printed By: KFARRC

Date	Mat No	Done	Description	Staff	Code
6/24/2005	Fri § 1073-001	Y	Response submitted to OA	Taylor M D	
6/24/2005	Fri § 7000-019	Y	Notice of Appeal Filed	BSW, TMD	
6/24/2005	Fri · 7000-019	Y	Notice of Appeal Filed	TMD, BSW	
6/24/2005	Fri § 1088-002A	Y	Patent Application Filed	Steven N. T	
6/24/2005	Fri § 1017-003	Y	Three Month OA MAILED	Benjamin S	
6/24/2005	Fri § 7000-043	Y	Notice of Allowance mailed	Benjamin S	
6/24/2005	Fri § 1061-001	Y	F/U with PTO re issuance	Taylor M D	SOFTDEAI
6/24/2005	Fri § 2901-002	Y	4th Statement of Use Deadline	Benjamin S	HARDDEA
6/24/2005	Fri § 7000-084	Y	Response submitted to OA	BSW, TMD	
6/24/2005	Fri · 7000-084	Y	Response submitted to OA	TMD, BSW	
6/24/2005	Fri § 2400-756E	Y	Notice of Allowance MAILED	Steven N. T	
6/24/2005	Fri § 2400-756E	Y	Report Notice of Allowance	Steven N. T	SOFTDEAI
6/24/2005	Fri § 7000-028	Y	Notice of Allowance mailed	Benjamin S	
6/24/2005	Fri 2867-048-1A	Y	F/U re further action	Benjamin S	SOFTDEAI
6/25/2005	Sat § 2867-066	Y	1st Maint. Fee Due-NO surcharge	Benjamin S	HARDDEA
6/25/2005	Sat § 7000-019	Y	Final Rejection-4 mth Deadline (AA rec'd)	BSW, TMD	HARDDEA
6/25/2005	Sat · 7000-019	Y	Final Rejection-4 mth Deadline (AA rec'd)	TMD, BSW	HARDDEA
6/25/2005	Sat § 7000-113	Y	Respond to 3 month OA	BSW, TMD	HARDDEA
	Filed 6/20/05.				
6/25/2005	Sat 2867-141	Y	Foreign Filing Deadline	Benjamin S	HARDDEA
6/25/2005	Sat § 2400-370	Y	Respond to 3 month OA	Steven N. T	HARDDEA
6/25/2005	Sat § 2400-770	Y	Final Rejection-3 mth Deadlin	Steven N. T	HARDDEA
6/26/2005	Sun § 7000-091	Y	Respond to Final Rejection (2mth)	BSW, TMD	HARDDEA
	Filed 6/20/05.				
6/26/2005	Sun · 7000-091	Y	Respond to Final Rejection (2mth)	TMD, BSW	HARDDEA
	Filed 6/20/05.				
6/26/2005	Sun § 2400-456	Y	1st Main. Fee Due-Abs. Deadline	Kelly A Far	Renewal Du
6/27/2005	Mon · 7000-115	Y	Absolute deadline to respond to OA	TMD, BSW	HARDDEA
6/27/2005	Mon § 2400-836-WO	Y	Deadline to send Priority Doc	Steven N. T	HARDDEA
6/27/2005	Mon § 7000-499	Y	F/U Postcard	Benjamin S	SUPPORT
6/27/2005	Mon § 2500-066-P	Y	F/U Postcard	Steven N. T	SUPPORT
6/27/2005	Mon § 7000-115	Y	Absolute deadline to respond to OA	BSW, TMD	HARDDEA
6/27/2005	Mon § 2500-040	Y	Notice of Allowance mailed	Steven N. T	
6/27/2005	Mon § 1089-001	Y	Response submitted to OA	Taylor M D	
6/27/2005	Mon § 2867-327	Y	F/U Postcard	BSW, RCB	SUPPORT
6/27/2005	Mon · 2867-327	Y	F/U Postcard	RCB, BSW	SUPPORT
6/27/2005	Mon § 1088-003	Y	Final Rejection (OA) received	Steven N. T	
6/27/2005	Mon § 2400-776	Y	F/U with PTO re further action	SNT, TMD	SOFTDEAI
6/27/2005	Mon 2400-836-WO	Y	Deadline to respond to Invitation to Correct Priority	Steven N. T	HARDDEA
6/27/2005	Mon · 2400-776	Y	F/U with PTO re further action	TMD, SNT	SOFTDEAI
6/27/2005	Mon § 2500-016E	Y	F/U with PTO re issuance	Steven N. T	SOFTDEAI
6/27/2005	Mon § 7000-048	Y	Notice of Allowance mailed	Benjamin S	
6/27/2005	Mon § 7000-421	Y	F/U Filing Receipt	Benjamin S	SUPPORT
6/27/2005	Mon § 2400-757	Y	F/U with PTO re further action	Steven N. T	SOFTDEAI
6/28/2005	Tue § 1088-002	Y	Issue Date	Kelly A Far	
6/28/2005	Tue § 2400-781-WO	Y	Chapter II Demand Filed	Steven N. T	
6/28/2005	Tue § 2500-016A-1	Y	Absolute deadline to respond to OA	Steven N. T	HARDDEA
6/28/2005	Tue § 7000-346	Y	F/U with PTO re issuance	Benjamin S	SOFTDEAI

Filters Used:  
75 Tagged Records

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Custom List Format

Date Printed: 1/12/2006  
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Date	Mar No	Done	Description	Staff	Code
6/28/2005	Tue § 7000-107	Y	Absolute deadline to respond to OA	BSW, TMD	HARDDEA
6/28/2005	Tue · 7000-107	Y	Absolute deadline to respond to OA	TMD, BSW	HARDDEA
6/28/2005	Tue § 4284-020	Y	Final Rejection (OA) received	Steven N. T	
6/28/2005	Tue § 7000-079	Y	F/U with PTO re issuance	Benjamin S	SOFTDEAI
6/28/2005	Tue § 2867-307	Y	F/U Filing Receipt	BSW, RCB	SUPPORT
6/28/2005	Tue · 2867-307	Y	F/U Filing Receipt	RCB, BSW	SUPPORT
6/28/2005	Tue § 7000-032	Y	F/U with PTO re issuance	Benjamin S	SOFTDEAI
6/28/2005	Tue § 2867-280	Y	F/U with PTO re issuance	Benjamin S	SOFTDEAI
6/28/2005	Tue § 7000-006	Y	Notice of Appeal Filed	BSW, TMD	
6/28/2005	Tue · 7000-006	Y	Notice of Appeal Filed	TMD, BSW	
6/28/2005	Tue § 1084-001	Y	Response submitted to OA	Taylor M D.	
6/28/2005	Tue § 1084-004	Y	Response submitted to OA	Taylor M D	
6/28/2005	Tue § 2867-068A	Y	Notice of Allowance mailed	Benjamin S	
6/28/2005	Tue § 2400-877	Y	Notice of Missing Parts MAILED	Steven N. T	
6/28/2005	Tue · 7000-129	Y	F/U with PTO re further action	TMD, BSW	SOFTDEAI
6/28/2005	Tue § 7000-088	Y	Three Month OA MAILED	BSW, TMD	
6/28/2005	Tue § 2867-262	Y	Notice of Allowance mailed	Benjamin S	
6/28/2005	Tue · 7000-088	Y	Three Month OA MAILED	TMD, BSW	
6/28/2005	Tue § 7000-129	Y	F/U with PTO re further action	BSW, TMD	SOFTDEAI
6/28/2005	Tue 4673-036	Y	Respond to 3 month OA with 1 month EOT	Steven N. T	HARDDEA
6/28/2005	Tue § 2867-350	Y	Restriction Requirement MAILED	BSW, RCB	
6/28/2005	Tue · 2867-350	Y	Restriction Requirement MAILED	RCB, BSW	
6/28/2005	Tue § 2900-001	Y	Final Rejection (OA) received	BSW, RCB	
6/28/2005	Tue · 2900-001	Y	Final Rejection (OA) received	RCB, BSW	
6/28/2005	Tue § 7000-132	Y	F/U re First Office Action	Benjamin S	SUPPORT
6/28/2005	Tue § 2867-219	Y	F/U with PTO re issuance	Benjamin S	SOFTDEAI
6/28/2005	Tue § 7000-006	Y	Final Rejection-3 mth Deadlin	BSW, TMD	HARDDEA
6/28/2005	Tue · 7000-006	Y	Final Rejection-3 mth Deadlin	TMD, BSW	HARDDEA
6/28/2005	Tue § 2400-471	Y	Issue Date	Kelly A Far	
6/28/2005	Tue § 7000-168	Y	F/U with PTO re issuance	Benjamin S	SOFTDEAI



# Exhibit C

Filters Used:  
12 Tagged Records

## ToDo Report

Custom List Format

Date Printed: 1/12/2006  
Time Printed: 4:21PM  
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Date	Mat No	Done	Description	Staff	Code
3/16/2004	Tue § 1025-005	Y	Patent Application Filed	Steven N. T	
5/17/2004	Mon § 1025-005	Y	F/U Postcard	Steven N. T SUPPORT	
6/16/2004	Wed § 1025-005	Y	File IDS	Steven N. T HARDDEA	
7/16/2004	Fri § 1025-005	Y	F/U Filing Receipt	Steven N. T SUPPORT	
3/16/2005	Wed § 1025-005	Y	Foreign Filing Deadline	Steven N. T HARDDEA	
4/20/2005	Wed § 1025-005	Y	Restriction Requirement MAILED	Steven N. T	
5/06/2005	Fri § 1025-005	Y	R-Respond to 1mth Restr. Req.	Steven N. T SOFTDEAI	
5/18/2005	Wed § 1025-005	Y	Response submitted to OA	Steven N. T	
5/20/2005	Fri § 1025-005	Y	Respond to 1mth Restrict. Req.	Steven N. T HARD,ATI	
8/20/2005	Sat § 1025-005	Y	Abs Deadline for Restrict. Req.	Steven N. T HARDDEA	
2/18/2006	Sat § 1025-005	N	F/U with PTO re further action	Steven N. T SOFTDEAI	
3/16/2006	Thu § 1025-005	Y	F/U re First Office Action	Steven N. T SUPPORT	